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Error to Circuit Court, York County.

Action by Nicholas M. Blair against the Du Pont Engineering Company. Judgment for plaintiff, and defendant brings error. Affirmed.

Henley, Hall, Hall & Peachy, of Williamsburg, and *Plummer & Bohannon*, of Petersburg, for plaintiff in error.

E. V. Farinholt and *David Meade White*, both of Richmond, for defendant in error.

FIELDS *v.* COMMONWEALTH.

March 17, 1921.

[106 S. E. 333.]

1. Homicide (§ 140*)—Indictment for Attempt to Murder Held Sufficiently to Charge Overt Acts.—Indictment charging that accused did feloniously attempt to commit the crime of murder by discharging and shooting off a pistol at and towards another, etc., held sufficiently to charge the overt acts done toward commission of the offense.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 129.]

2. Homicide (§ 131*)—Indictment Sufficiently Informed Accused of Person upon Whom Attempt Made—Indictment charging an attempt to commit the crime of murder by discharging a pistol at another held sufficiently to inform accused whether she was charged with attempt to murder the person named or some one else.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 130.]

3. Homicide (§ 139*)—Indictment for Attempt to Commit Murder Not Invalid for Failure to Specify Degree.—Indictment charging attempt to commit the crime of murder by discharging a pistol at another held not invalid because failing to specify that the murder alleged to have been attempted was murder in the first degree.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 129.]

4. Homicide (§ 9*)—Intent to Kill Essential Element of First Degree Murder.—The intent to kill is an essential element of the crime of murder in the first degree.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 118.]

5. Homicide (§ 128*)—Indictment for Murder Need Not Allege Intent to Kill.—An indictment for murder need not expressly allege the intent to kill, and an indictment for murder at common law which does not expressly charge such intent is valid and sufficient to support verdict of murder in the first degree, if the evidence is sufficient to establish the murder was of such degree.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 130.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

6. Homicide (§§ 313 (1), 330*)—Verdict Convicting of Attempt to Murder Not Invalid because Not Finding Degree.—In a prosecution under indictment charging attempt to commit the crime of murder, verdict of guilty held not invalid because it did not expressly appear therefrom that the jury found defendant guilty of attempt to commit murder in the first degree, and, in the absence of the evidence or instructions, the appellate court must presume that the jury in fact found defendant guilty of an attempt to commit murder in the first degree, in which case alone it could have lawfully fixed the punishment named in the verdict.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 165.]

7. Criminal Law (§ 1144 (6)*)—General Verdict Presumed to Be Responsive to All Issues Affecting Its Correctness.—Even in civil cases a general verdict is presumed to be responsive to all issues affecting its correctness, and it is only where it affirmatively appears from the record that it is uncertain whether the verdict responds to all such issues that it will be held to be invalid, which rule is still stronger in criminal cases.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 612.]

Error to Circuit Court, York County.

Lou Emma Fields was convicted of an attempt to commit murder, and she brings error. Affirmed.

Ashton Dovell, of Williamsburg, for plaintiff in error.

Ino. R. Saunders, Atty. Gen., and *J. D. Hank, Jr., Asst. Atty. Gen.*, for the Commonwealth.

BRAGG v. JUSTUS et al.

March 17, 1921.

[106 S. E. 335.]

1. Exceptions, Bill of (§ 43 (1)*)—Bill Must Be Filed within Time or Court Is without Jurisdiction.—The filing of bills of exception within the time prescribed by law is of the very essence of the jurisdiction of the trial court, and, if not filed in such time, the trial court cannot make the bills a part of the record thereafter, nor can the matter be affected by consent of counsel.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 388.]

2. Exceptions, Bill of (§ 41 (5)*)—Bill Must Be Filed within 60 Days after Rendition of Judgment.—Where judgment was rendered February 2, a bill of exceptions filed May 18 comes too late, and cannot be considered, for the bill of exceptions, under Code 1919, § 6252, must be filed within 60 days after rendition of judgment, not-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.